

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

DATREC, LLC,)	
Plaintiff,)	
)	Civil Action No. 6:20-CV-1107
v.)	
)	
eCLINICAL WORKS, INC.)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

DatRec, LLC (“DatRec”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,156,158 (“the ‘158 patent”) (referred to as the “Patent-in-Suit”) by eClinical Works, Inc.

I. THE PARTIES

1. Plaintiff DatRec is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, eClinical Works, Inc. (“eClinical”) is a corporation existing under the laws of the State of Texas, with a principal place of business located at 9606 N Mopac Expy #100, Austin, TX 78759. On information and belief, eClinical sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served with process through their registered agent, Liz Wallace, 9606 N. Mopac Expwy, Austin, TX 78759.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court also has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. § 1332(a)(1) because Defendant is a corporation organized under the laws of the State of Delaware with a principal, physical place of business at 9606 N Mopac Expy #100, Austin, TX 78759. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

6. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

A. Infringement of the '158 Patent

7. On April 10, 2012, U.S. Patent No. 8,156,158 (“the ’158 patent”, attached as Exhibit A) entitled “Method and System for Use of a Database of Personal Data Records” was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the ’158 patent by assignment.

8. The ’158 patent relates to a novel and improved manner of constructing a verified database of identified individuals capable of processing with a subgroup of at least one medical application.

9. EClinical maintains, operates, and administers electronic health records that infringes one or more claims of the ’158 patent, including one or more of claims 1-23, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ’158 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

10. Support for the allegations of infringement may be found in the following preliminary table:

Exemplary Claim	eClinicalWorks EHR
A method for using and managing a database, the method comprising:	Plaintiff contends that eClinicalWorks EHR provides a system and/or method for using and managing a database:

Exemplary Claim

eClinicalWorks EHR

A New Core Understanding of Health


eClinicalWorks V11 offers innovative solutions for **Patient Engagement** and **Population Health** — creating cycles of care that help providers better understand patient needs, accurately gauge risk, and promote more effective treatment and better outcomes.



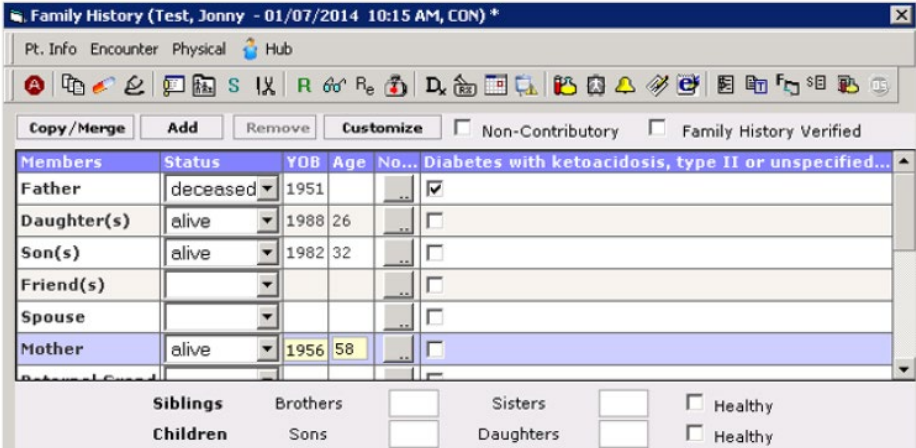
eClinicalWorks V11 is the next step in the evolution of healthcare IT, a cloud-based EHR and Revenue Cycle Management solution designed to meet the challenges and opportunities of value-based care. Providers enjoy easy documentation, the latest in interoperability, and can access patient data anytime, anywhere — on a PC or Mac® using a web browser, a smartphone, or an iPad®. And V11 surrounds our core EHR with tools for stronger Patient Engagement, deeper understanding of Population Health, and a renewed emphasis on patient safety.

Attachment 1 (eClinicalWorks EHR (Webpage, 2020)) at 1.

[Source: <https://www.youtube.com/watch?v=pK5mJGKdDc0> (at 0:44)]

Exemplary Claim	eClinicalWorks EHR
<p>providing a verified database of a plurality of identified individuals, the verified database comprising a plurality of individual-identifier data sets (IDSs) and relationship data; and</p>	<p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. The following exemplifies this limitation's existence in Accused Systems:</p>  <p>The eClinicalWorks Cloud is a better way to run your practice. The Cloud keeps your patient and practice data safe, secure, and fully accessible regardless of time, network traffic, or Mother Nature. Move to the Cloud and never worry about data backup, security, or server upgrades and maintenance again.</p> <h3 data-bbox="565 909 1235 947">Why the eClinicalWorks Cloud is Different</h3> <p data-bbox="406 1005 1393 1125">Unlike other cloud EMRs that co-mingle your data with data from other practices, the eClinicalWorks Cloud keeps your private data private. Concerned about performance or upgrades? Since you're on your own database, your system performance will never be affected by another practice's upgrades or large search queries. You can also schedule upgrades when they're convenient for you.</p> <p data-bbox="396 1169 1227 1199">Attachment 2 (The eClinicalWorks Grid Cloud (Webpage, 2020)) at 1.</p> <div data-bbox="406 1308 1143 1415" style="background-color: #f0f0f0; padding: 10px;"> <p>Note: PHR includes all the sections (Allergies, Problems List, Procedures, Medications, Immunization, Vitals, Social History, Family History, and Lab Diagnostics).</p> </div> <p data-bbox="396 1455 1068 1484">Attachment 3 (Patient Portal Users Guide (2012)) at 40.</p>

Exemplary Claim	eClinicalWorks EHR
	<div data-bbox="397 262 1182 1822"> <div data-bbox="1094 268 1175 289"><< Login</div> <div data-bbox="435 325 912 359"> <div>Personal Details</div> <div>Emergency Contact</div> <div>Employer</div> </div> <p>Important ! : This is for new and prospective patients to enroll in our practice. Please do not fill the pre-registration if you are already a patient in our practice. If you need access to the web-portal or if you are having trouble logging in, please contact the practice.</p> <div data-bbox="435 489 1166 982"> <div> <div>*Last Name</div> <input type="text"/> </div> <div> <div>*First Name</div> <input type="text"/> </div> <div> <div>MI</div> <input type="text"/> </div> <div> <div>*Date of Birth</div> <input type="text"/> <div>[mm/dd/yyyy]</div> </div> <div> <div>Marital Status</div> <input type="text"/> </div> <div> <div>*Sex</div> <div> <input type="radio"/> Male <input type="radio"/> Female </div> </div> <div> <div>*Email</div> <input type="text"/> </div> </div> <div> <div>*Address 1</div> <input type="text"/> </div> <div> <div>Address 2</div> <input type="text"/> </div> <div> <div>*City</div> <input type="text"/> </div> <div> <div>*State</div> <input type="text" value="AL"/> </div> <div> <div>*Zip</div> <input type="text"/> </div> <div> <div>Home Phone</div> <input type="text"/> <input type="text"/> <input type="text"/> </div> <div> <div>*Work Phone</div> <input type="text"/> <input type="text"/> <input type="text"/> <div>Ext</div> <input type="text"/> </div> <div> <div>Cell Phone</div> <input type="text"/> <input type="text"/> <input type="text"/> </div> <div> <div>Social Security</div> <input type="text"/> <input type="text"/> <input type="text"/> </div> </div> <div data-bbox="971 1087 1144 1123"> <div>Next>></div> <div>Cancel</div> </div> <div data-bbox="402 1161 1177 1822"> <div> <div>Personal Details</div> <div> <div>Name: Ann Haand</div> <div>Date of Birth: 08/13/1972 ?</div> </div> <div> <div>Marital Status</div> <input type="text" value="Married"/> </div> <div> <div>Gender</div> <div> <input type="radio"/> Male <input checked="" type="radio"/> Female </div> </div> </div> <div> <div>Address Details</div> <div> <div>*Address 1</div> <input type="text" value="123 Haand Road"/> </div> <div> <div>Address 2</div> <input type="text"/> </div> <div> <div>*City</div> <input type="text" value="Handsome"/> </div> <div> <div>*State</div> <input type="text" value="MA"/> </div> <div> <div>Zip</div> <input type="text"/> </div> </div> <div> <div>Contact Details</div> <div> <div>Home Phone</div> <input type="text" value="941"/> <input type="text" value="000"/> <input type="text" value="0000"/> </div> <div> <div>Cell Phone</div> <input type="text"/> <input type="text"/> <input type="text"/> </div> <div> <div>Work Phone</div> <input type="text"/> <input type="text"/> <input type="text"/> </div> <div> <div>Ext</div> <input type="text"/> </div> <div> <div>Email</div> <input type="text" value="ji@eclinicalworks.com"/> </div> </div> <div> <div>Other Details</div> <div> <div>PCP</div> <input type="text" value="Willis, Sam X"/> </div> <div> <div>Referring Doctor</div> <input type="text"/> </div> </div> </div>

Exemplary Claim	eClinicalWorks EHR
	<p>Attachment 3 (Patient Portal Users Guide (2012)) at 203 and 219.</p> <p>Other menu items, such as Social History, Family History, <u>Demographics</u>, and others, may be selected for use by the practice and added to the Questionnaires category. They are completed by the patient in the same manner as the example above.</p> <p>Attachment 3 (Patient Portal Users Guide (2012)) at 244.</p>  <p>Attachment 4 (Meaningful Use Stage 2 Users Guide (2014)) at 88.</p>
<p>processing said verified database in accordance with one or more parameters or conditions selected in accordance with at least one medical application and creating a sub-group database including data records of the individuals from the verified database having said one or more selected</p>	<p>Plaintiff contends that the verified database is processed in accordance with one or more parameters or conditions selected in accordance with at least one medical application and a sub-group database is created (for example, filtering, sorting, etc.) including data records of the individuals from the verified database having said one or more selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users. Further, data from the verified database is applied to provide personalized medicine service to at least one of the identified individuals. The following exemplifies this limitation's existence in Accused Systems:</p>

Exemplary Claim

parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users and enable to apply data from said verified database to provide personalized medicine service to at least one of said identified individuals;

eClinicalWorks EHR**Core 11: Patient Lists****Objective**

Generate lists of patients by specific conditions to use for quality improvement, reduction of disparities, research, or outreach.

Measure

Generate at least one report listing patients of the EP with a specific condition.

No denominator/numerator calculations are required for this measure. This measure is reported through self-attestation.

Lists can be generated in the eClinicalWorks system using the Registry:

	Patient Name	DOB	Sex	Age	Tel. No	Acc #
<input checked="" type="checkbox"/>	Clark, Dan B	04/25/1945	m	68Y	508-475-0600	9348
<input checked="" type="checkbox"/>	Clark, Dan C	04/25/1945	m	68Y	508-475-0600	9349
<input checked="" type="checkbox"/>	Clark, Dan A	04/25/1945	m	68Y	508-475-0600	9347
<input checked="" type="checkbox"/>	Link, Ted F	03/03/1933	m	80Y		9167
<input checked="" type="checkbox"/>	Palm, Auto C	08/08/1918	m	95Y	508-101-0181	9202
<input checked="" type="checkbox"/>	Palm, Banana B	11/21/1922	m	91Y	508-112-1121	9203
<input checked="" type="checkbox"/>	Palm, Olive C	07/17/1917	m	96Y	508-717-1717	9204
<input checked="" type="checkbox"/>	Pmerge, Case23 A	02/23/1923	m	90Y	508-222-3333	9154
<input checked="" type="checkbox"/>	Pmerge, Case23 B	02/23/1923	m	90Y	508-222-3333	9155
<input checked="" type="checkbox"/>	Test, Henry	10/10/1945	m	68Y		9117

Attachment 4 (Meaningful Use Stage 2 Users Guide (2014)) at 46.

Core 12: Preventive Care**Objective**

Use clinically relevant information to identify patients who should receive reminders for preventive/follow-up care and send these patients the reminders, per patient preference.

...

A follow-up, health maintenance, or preventive care letter from the Registry:

	Patient Name	DOB	Sex	Age	Tel. No	Acc #
<input checked="" type="checkbox"/>	1000, Test	01/01/1988	m	32Y		P9606
<input checked="" type="checkbox"/>	Abc, copy m	11/11/1990	m	23Y	444-444-4541	P9304
<input checked="" type="checkbox"/>	Agarwal, Riya	10/10/1977	f	36Y		P9469
<input checked="" type="checkbox"/>	Raj, Raj	10/07/1995	m	28Y	316-743-7437	P9491
<input checked="" type="checkbox"/>	Test, Rashmi	01/01/1990	f	30Y	508-636-2700	P9515

Demographics: Age >=5 AND Age <=65 AND Sex=Both AND Show All

Letter Form/Health Maintenance Run Letter 1-100 of 276 records Clear Search Analyze Data

100 Patient Hub New Appointment Copy Flowchart Exclude from Search Release Lock Send eMessage Enrollment Request Messenger

Attachment 4 (Meaningful Use Stage 2 Users Guide (2014)) at 47 and 48.

Exemplary Claim	eClinicalWorks EHR												
	<div><div>Patient Lists to identify asthma or COPD treatment candidates</div><div>Helping identify patients who may benefit from treatment intensification</div><div><div>A Patient List, called a Registry Report in eClinicalWorks EHR, is an EHR system feature that can help to identify patients who meet certain health-related criteria, including:</div><div><div><div><div></div><div>New diagnosis</div></div><div><div></div><div>Potential medication changes</div></div><div><div></div><div>Current and prior medications</div></div><div><div></div><div>A change in lab or test results</div></div><div><div></div><div>Additional clinical or patient demographic information</div></div></div></div><div>...</div><div><div><div><div>Imm / T. Inj</div><div>Encounters</div><div>Structured Data</div><div>Saved Reports</div><div>Referrals</div><div>Reports</div><div>Allergies</div></div><div><div>Demographics</div><div>Vitals</div><div>Labs / DI / Proc.</div><div>ICD</div><div>CPT</div><div>Rx</div><div>Chief Complaints</div><div>M</div></div><div><div>ICD Codes</div><div></div><div>Set</div></div><div><div>Date Range</div><div></div><div>to</div><div></div></div><div><div>Search Type</div><div><div><input checked="" type="radio"/> Search in Assessments</div><div><input type="radio"/> Search in Problem List</div></div></div><div><div>Save</div></div></div><div><div>Select Assessments</div><div><div><div>Switch To Classic Search</div><div><div><input type="radio"/> Problem List</div><div><input type="radio"/> Previous Assessment</div></div><div><div>Smart Search</div><div><input type="checkbox"/> Real Time</div><div>Go</div></div><div><div></div></div><div>Did you mean?</div></div></div><div><div>IMO</div><div><table><tr><th>Code</th><th>Diagnosis</th><th>SNOMED</th></tr><tr><td></td><td></td><td></td></tr></table></div><div><div>Selected Assessments</div><div><table><tr><th>ICD</th><th>Diagnosis</th><th>SNOMED</th></tr><tr><td></td><td></td><td></td></tr></table></div></div></div></div></div><div>Attachment 5 (Creating a Patient List for Asthma or COPD Patients in eClinicalWorks EHR (2019)) at 1 and 3.</div></div></div>	Code	Diagnosis	SNOMED				ICD	Diagnosis	SNOMED			
Code	Diagnosis	SNOMED											
ICD	Diagnosis	SNOMED											

Exemplary Claim	eClinicalWorks EHR
	<p>ActX makes it practical to bring <u>precision medicine</u> into your practice. With ActX, genomic decision support is seamlessly integrated into the normal eClinicalWorks workflow. When a prescription is entered in eClinicalWorks, ActX automatically checks the drug in the background, letting you know if there may be issues with adverse reactions, efficacy, or dosing based on the patient's genetics. You will also receive clinical inbox alerts (via the L jellybean within the eClinicalWorks application) for actionable genomic risks, such as hereditary cancers. A full patient genomic profile is available in the chart. The ActX Service includes affordable patient DNA testing.</p> <p>Attachment 6 (Partners - Precision Medicine (Webpage, 2020)) at 1.</p>
<p>wherein said providing of the verified database comprises: permitting a plurality of individuals to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the</p>	<p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. A plurality of individuals is permitted to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship. The entered IDBs are processed to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals. The following exemplifies this limitation's existence in Accused Systems:</p>

Exemplary Claim	eClinicalWorks EHR
<p>nature of relationship;</p> <p>processing the entered IDBs to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals.</p>	<div data-bbox="397 262 868 787"> <p align="center"><< Login</p> <p>Personal Details Emergency Contact Employer</p> <p>Important !: This is for new and prospective patients to enroll in our practice. Please do not fill the pre-registration if you are already a patient in our practice. If you need access to the web-portal or if you are having trouble logging in, please contact the practice.</p> <p>*Last Name <input type="text"/></p> <p>*First Name <input type="text"/></p> <p>MI <input type="text"/></p> <p>*Date of Birth <input type="text"/> [mm/dd/yyyy]</p> <p>Marital Status <input type="text"/></p> <p>*Sex <input type="radio"/> Male <input type="radio"/> Female</p> <p>*Email <input type="text"/></p> <p>*Address 1 <input type="text"/></p> <p>Address 2 <input type="text"/></p> <p>*City <input type="text"/> *State <input type="text"/> AL <input type="text"/> *Zip <input type="text"/></p> <p>Home Phone <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p>*Work Phone <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Ext <input type="text"/></p> <p>Cell Phone <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p>Social Security <input type="text"/> <input type="text"/> <input type="text"/></p> <p align="right">Next>> Cancel</p> </div> <div data-bbox="876 283 1461 787"> <p>Personal Details</p> <p>Name: Ann Haand Date of Birth: 08/13/1972 </p> <p>Marital Status <input type="text"/> Married <input type="text"/></p> <p>Gender <input type="radio"/> Male <input checked="" type="radio"/> Female</p> <p>Address Details</p> <p>*Address 1 <input type="text"/> 123 Haand Road</p> <p>Address 2 <input type="text"/></p> <p>*City <input type="text"/> Handsome *State <input type="text"/> MA <input type="text"/> Zip <input type="text"/></p> <p>Contact Details</p> <p>Home Phone <input type="text"/> 941 <input type="text"/> 000 <input type="text"/> 0000</p> <p>Cell Phone <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p> <p>Work Phone <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Ext <input type="text"/></p> <p>Email <input type="text"/> j1@eclinicalworks.com</p> <p>Other Details</p> <p>PCP <input type="text"/> Willis, Sam X</p> <p>Referring Doctor <input type="text"/></p> </div>

Attachment 3 (Patient Portal Users Guide (2012)) at 203 and 219.

Note: PHR includes all the sections (Allergies, Problems List, Procedures, Medications, Immunization, Vitals, Social History, Family History, and Lab Diagnostics).

Attachment 3 (Patient Portal Users Guide (2012)) at 40.

Exemplary Claim	eClinicalWorks EHR
	<div data-bbox="414 268 1084 310"> medical history social history ros form family history </div> <p data-bbox="414 321 1084 352">Please complete your health questionnaire to the best of your ability.</p> <div data-bbox="414 363 1084 394"> Past Medical History </div> <p data-bbox="414 405 1084 468">environmental allergies <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 489 1084 552">asthma <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 573 1084 636">HTN <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 657 1084 720">hypercholesterolemia <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 741 1084 804">diabetes <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 825 1084 888">hypothyroidism <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 909 1084 972">atrial fibrillation <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 993 1084 1056">CHF <input type="radio"/> Yes <input type="radio"/> No</p> <p data-bbox="414 1077 1084 1140">COPD <input type="radio"/> Yes <input type="radio"/> No</p> <div data-bbox="414 1161 1084 1224"> Submit Request </div> <p data-bbox="414 1287 1084 1308">...</p> <p data-bbox="414 1339 1494 1444">Other menu items, such as Social History, Family History, Demographics, and others, may be selected for use by the practice and added to the Questionnaires category. <u>They are completed by the patient in the same manner as the example above.</u></p> <p data-bbox="414 1476 1185 1507">Attachment 3 (Patient Portal Users Guide (2012)) at 243 and 244.</p> <h3 data-bbox="414 1612 953 1654">Menu 4: Family Health History</h3> <div data-bbox="483 1675 522 1717"> </div> <p data-bbox="548 1707 758 1738">Enhanced Feature</p> <p data-bbox="475 1759 553 1780">Objective</p> <p data-bbox="475 1791 932 1822">Record patient family health history as structured data.</p>

Exemplary Claim

eClinicalWorks EHR

Family History (Smith, James - 12/06/2013 02:45 PM, NP) *

Pt. Info Encounter Physical Hub

Copy/Merge Add Remove Customize ☐ Non-Contributory ☐ Family History Verified

Member

Father

Daughter

Son(s)

Friend(s)

Spouse

List name

Mother

Notes

Customize Columns

☒ Show Custom Names in Progress Notes Add Remove

Order	ICD Co...	Diagnosis	Snomed...	Custom Name
401.9	Hypertension		BP	
902.0	Abdominal aorta injury			
E10.9	Type 1 diabetes mellitus without com		Diabetes	
M10.9	Gout, unspecified			

OK Cancel

Family History (Test, Jonny - 01/07/2014 10:15 AM, CON) *

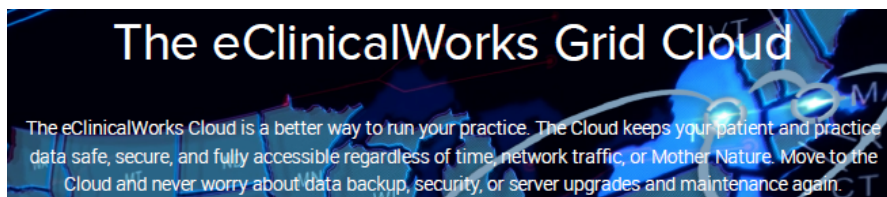
Pt. Info Encounter Physical Hub

Copy/Merge Add Remove Customize ☐ Non-Contributory ☐ Family History Verified

Members	Status	YOB	Age	No...	Diabetes with ketoacidosis, type II or unspecified...
Father	deceased	1951			<input checked="" type="checkbox"/>
Daughter(s)	alive	1988	26		<input type="checkbox"/>
Son(s)	alive	1982	32		<input type="checkbox"/>
Friend(s)					<input type="checkbox"/>
Spouse					<input type="checkbox"/>
Mother	alive	1956	58		<input type="checkbox"/>

Siblings Brothers ☐ Sisters ☐ ☐ Healthy
 Children Sons ☐ Daughters ☐ ☐ Healthy

Attachment 4 (Meaningful Use Stage 2 Users Guide (2014)) at 87 and 88.



Exemplary Claim	eClinicalWorks EHR
	Attachment 2 (The eClinicalWorks Grid Cloud (Webpage, 2020)) at 1.

These allegations of infringement are preliminary and are therefore subject to change.

11. eClinical has and continues to induce infringement. eClinical has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, eClinical has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

12. eClinical has and continues to contributorily infringe. eClinical has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, eClinical has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

13. EClinical has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '158 patent.

IV. JURY DEMAND

DatRec hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, DatRec prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '158 patent through eClinical.com, or a website linked thereto;
- b. award DatRec damages in an amount sufficient to compensate it for Defendant's infringement of the '158 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award DatRec an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award DatRec its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award DatRec such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

A handwritten signature in blue ink, appearing to read 'WPR', with a large, stylized loop extending from the end of the signature.

William P. Ramey, III
Texas State Bar No. 24027643
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

Attorneys for DatRec, LLC